

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

COREY R. LEARY, #1208967

V.

DOUG DRETKE, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL
JUSTICE-INSTITUTIONAL DIVISION

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CIVIL ACTION NO. G-05-256

ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the Magistrate Judge, entered on May 13, 2005, which recommends that the Application for Writ of Habeas Corpus of Corey R. Leary be dismissed. Leary objects to the Report and Recommendation generally, and further asserts that the disciplinary case at bar was written in retaliation for his grievance filing practices. Specifically, Petitioner asserts that Major Sloan wrote the disciplinary case against him in retaliation by Sgt. Lee for his supervisor Lt. Schwartzer because Plaintiff chose to use the grievance procedure. Plaintiff also states that a “deep-rooted” conspiracy exists within the unit “in retaliation for using grievances.”

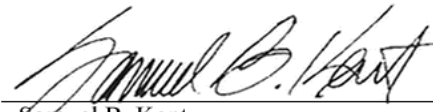
To state a claim of retaliation, an inmate must allege the violation of a specific constitutional right and be prepared to establish that but for the retaliatory motive the complained of incident--such as the filing of disciplinary reports--would not have occurred. The inmate must produce direct evidence of motivation or, the more probable scenario, “allege a chronology of events from which retaliation may plausibly be inferred.” *Woods v. Smith*, 60 F.3d 1161 (5th Cir. 1995). In this case, Petitioner has offered no evidence, whatsoever, to support his claim of retaliation; he merely posits

the claim as an alternative explanation for his receiving a disciplinary case. Mere conclusory allegations, without more, are insufficient to support a claim of retaliation. *Id.*

Having given this matter *de novo* review as required by 28 U.S.C. §636 (b)(1)(C), this Court finds that the Report and Recommendation of the Magistrate Judge is a well reasoned and correct application of relevant law and should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein.

It is **ORDERED** that the Application for Writ of Habeas Corpus of Corey R. Leary is **DENIED** and this case is **DISMISSED** with prejudice.

DONE at Galveston, Texas, this the 24th day of May, 2005.



Samuel B. Kent
United States District Judge